

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1392
91ST GENERAL ASSEMBLY

Reported from the Committee on Education - Elementary and Secondary, February 28, 2002, with recommendation that the House Committee Substitute for House Bill No. 1392 Do Pass.

TED WEDEL, Chief Clerk

3524L.05C

AN ACT

To amend chapter 162, RSMo, by adding thereto thirteen new sections relating to school district tax surcharges, with penalty provisions for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 162, RSMo, is amended by adding thereto thirteen new sections, to
2 be known as sections 162.1150, 162.1152, 162.1153, 162.1154, 162.1156, 162.1157, 162.1158,
3 162.1160, 162.1162, 162.1164, 162.1166, 162.1168, and 162.1172, to read as follows:

162.1150. Sections 162.1150 to 162.1172 shall be known and may be cited as the
2 **"School District Income Tax Surcharge Act", and the following terms mean:**

3 (1) "Director of revenue", the director of revenue of the state of Missouri;

4 (2) "Income tax", the tax imposed by chapter 143, RSMo;

5 (3) "Residents of the district", persons residing in the school district; except, that
6 if during a tax year a person moves from one district imposing a tax pursuant to sections
7 162.1150 to 162.1172 to another district imposing a tax pursuant to sections 162.1150 to
8 162.1172, the district in which the person resides on December thirty-first of such tax year
9 shall be deemed to be the district of residence for such tax year for the purposes of sections
10 162.1150 to 162.1172 and shall be credited with all the tax paid by such person pursuant
11 to sections 162.1150 to 162.1172. An estate or trust shall be a "resident of the district" if:

12 (a) In the case of a decedent, the decedent was at the time of death residing in the
13 district;

14 (b) In the case of a trust created by will of a decedent, the decedent was at the time
15 of death residing in the district; and

16 (c) In the case of a trust created by, or consisting of property of a person, the
17 person was residing in the district on the date the trust or portion of the trust became

18 irrevocable;

19 (4) "School board", the governing body of a school district;

20 (5) "School district" includes seven-director, urban, metropolitan school districts
21 and special school districts.

162.1152. 1. Any school district, by a majority vote of its school board, may impose
2 for the benefit of the school district a surcharge on the income tax of residents of the school
3 district at a rate not to exceed fifteen percent; provided that, no resolution or order enacted
4 pursuant to this section shall be effective unless the school board of the district submits to
5 the voters of the district, at a general or primary election, a proposal to authorize the
6 school board of the school district to impose an income tax surcharge.

7 2. The question shall be submitted in substantially the following form:

8 Shall the (School district's name) impose a school district-wide income tax
9 surcharge of (Insert amount) for a period not to exceed (Insert number) years
10 for the purpose of (Insert educational purpose)?

11 ☐ YES

☐ NO

12

13 If you are in favor of the question, place an "X" in the box opposite "YES". If you are
14 opposed to the question, place an "X" in the box opposite "NO".

15 3. If a majority of the votes cast on the proposal is in favor of the proposal, then the
16 surcharge on the income tax of residents of the district shall be imposed and shall take
17 effect as provided in section 162.1154. If a majority of the votes cast by the qualified voters
18 voting is opposed to the proposal, then the school board of the district shall have no power
19 to impose the income tax surcharge as authorized pursuant to sections 162.1150 to 162.1172
20 unless and until the school board shall again have submitted a proposal to authorize the
21 imposition of the income tax surcharge pursuant to sections 162.1150 to 162.1172 and such
22 proposal is approved by a majority of the qualified voters voting thereon. However, in no
23 event shall a proposal for approval of an income tax surcharge be submitted to the voters
24 pursuant to sections 162.1150 to 162.1172 sooner than ten months from the date of the last
25 proposal submitted pursuant to sections 162.1150 to 162.1172 in the school district.

26 4. The tax authorized by this section shall terminate not more than three years from
27 the date on which such tax was initially imposed by the school board, unless sooner
28 abolished by the school board.

162.1153. 1. In lieu of imposing the income tax surcharge pursuant to section
2 162.1152, any school district may impose a surcharge on the income tax of residents of the
3 school district for a period not to exceed five years at a rate not to exceed fifteen percent
4 for the purpose of property tax reduction, provided that no resolution or order enacted

5 pursuant to this section shall be effective unless the school board of the district submits to
6 the voters of the district at a primary or general election a proposal to authorize the school
7 board to impose the income tax surcharge.

8 2. The question shall be submitted in substantially the following form:

9 Shall the (School district's name) impose a school district-wide income tax
10 surcharge of (Insert amount) for a period not to exceed (Insert number) years
11 for the purpose of reducing property tax?

12 ☐ YES

☐ NO

13
14 If you are in favor of the question, place an "X" in the box opposite "YES". If you are
15 opposed to the question, place an "X" in the box opposite "NO".

16 3. If a majority of the votes cast on the proposal is in favor of the proposal, then the
17 surcharge on the income tax of residents of the district shall be imposed and shall take
18 effect as provided in section 162.1154. If a majority of the votes cast by the qualified voters
19 voting is opposed to the proposal, then the school board of the district shall have no power
20 to impose the income tax surcharge as authorized pursuant to sections 162.1150 to 162.1172
21 unless and until the school board shall again have submitted a proposal to authorize the
22 imposition of the income tax surcharge pursuant to sections 162.1150 to 162.1172 and such
23 proposal is approved by a majority of the qualified voters voting thereon. However, in no
24 event shall a proposal for approval of an income tax surcharge be submitted to the voters
25 pursuant to sections 162.1150 to 162.1172 sooner than ten months from the date of the last
26 proposal submitted pursuant to sections 162.1150 to 162.1172 in the school district.

27 4. The department of elementary and secondary education shall calculate a
28 property tax equivalent figure for such portion of the district's operating levy which shall
29 be used on lines 1 and 2 of the state school aid formula during the effective period of the
30 income tax surcharge.

31 5. The tax authorized by this section shall terminate not more than five years from
32 the date on which the tax was initially imposed by the school board, unless sooner
33 abolished by the school board.

162.1154. Within ten days after the certification of the vote approving any
2 resolution or order imposing an income tax surcharge by the voters of a school district, the
3 secretary of the school board shall forward to the director of revenue a certified copy of
4 the resolution or order of the school board. The tax shall become effective on January first
5 of the year immediately succeeding the approval.

162.1156. On and after the effective date of any income tax surcharge imposed
2 pursuant to sections 162.1150 to 162.1172, the director of revenue shall perform all

3 functions incident to the administration, collection, enforcement, and operation of the
4 income tax surcharge, and the director of revenue shall collect in addition to the income
5 tax for the state of Missouri the additional income tax surcharge imposed pursuant to
6 sections 162.1150 to 162.1172. The income tax surcharge imposed hereunder and the tax
7 imposed pursuant to chapter 143, RSMo, shall be collected together and reported upon
8 such forms and pursuant to such rules and regulations as may be prescribed by the
9 director of revenue.

162.1157. 1. Notwithstanding section 143.773, RSMo, to the contrary, no penalty
2 shall be imposed on any taxpayer in a school district which has imposed an income tax
3 surcharge pursuant to section 162.1152 or 162.1153 who fails to include the correct
4 information about the taxpayer's school district on the tax return for the taxable year in
5 which the school district has imposed the income tax surcharge.

6 2. For all taxable years after the taxable year in which the school district has
7 imposed an income tax surcharge pursuant to section 162.1152 or 162.1153, a penalty of
8 not more than fifty dollars shall be imposed on a taxpayer in a school district which has
9 imposed the income tax surcharge who fails to include the correct information about the
10 taxpayer's school district on the tax return. Any penalty imposed pursuant to this section
11 and any interest assessed and collected on the income tax surcharge due but not paid as a
12 result of failing to include the correct school district information on the tax return shall be
13 transferred to the school district in which the taxpayer lives.

162.1158. The following provisions shall govern the collection by the director of
2 revenue of the income tax surcharge imposed pursuant to sections 162.1150 to 162.1172:

3 (1) All applicable provisions contained in chapter 143, RSMo, governing the state
4 income tax shall apply to the collection of the income tax surcharge imposed pursuant to
5 sections 162.1150 to 162.1172, except as modified in sections 162.1150 to 162.1172;

6 (2) The income tax surcharge shall be imposed on the tax due pursuant to chapter
7 143, RSMo, and shall be paid annually;

8 (3) The penalties provided in chapter 143, RSMo, for a violation of that chapter are
9 hereby made applicable to violations of sections 162.1150 to 162.1172.

162.1160. 1. All school district income tax surcharges collected by the director of
2 revenue pursuant to sections 162.1150 to 162.1172 on behalf of any school district, less one
3 percent for cost of collection which shall be deposited in the state's general revenue fund
4 after payment of premiums for surety bonds as provided in sections 162.1150 to 162.1172,
5 shall be deposited by the director in a special trust fund which is hereby created to be
6 known as the "School District Income Tax Surcharge Trust Fund". The collection fee shall
7 be reduced to one-half of one percent in the third and subsequent years, if any, of the tax.

8 The moneys in such fund shall not be deemed to be state funds and shall not be
9 commingled with any funds of the state. The director of revenue shall keep accurate
10 records of the amount of money in the trust fund which was collected on behalf of each
11 school district imposing an income tax surcharge, and the records shall be open to the
12 inspection of officers of the school district and to the public. On or before June fifteenth
13 of each year the director of revenue shall distribute to the treasurer of each school district
14 imposing an income tax surcharge the amount in the fund due the school district. Districts
15 shall deposit moneys from the trust fund in the teachers', incidental, or capital projects
16 fund, at the discretion of the board. Such moneys may be transferred between such funds
17 by the board. Such moneys shall not be used for the determination of salary compliance.

18 2. The director of revenue may make refunds from amounts in the trust fund
19 credited to the appropriate school district for erroneous payments and overpayments
20 made, and may redeem dishonored checks and drafts deposited to the credit of a school
21 district. After one year has elapsed after the effective period of the income tax surcharge
22 in a school district, the director of revenue shall remit the balance in the account to the
23 school district and close the account of that school district. Any refunds paid or checks
24 redeemed after the close of the account of any school district shall be charged against the
25 amounts payable to the school district pursuant to chapter 163, RSMo. The director of
26 revenue shall notify each school district of each instance of any amount refunded or any
27 check redeemed from receipts due the school district.

28 3. The director of revenue shall annually report on management of the trust fund
29 and administration of such school district income tax surcharge. The director of revenue
30 shall provide each school district imposing the tax authorized by sections 162.1150 to
31 162.1172 with a detailed accounting of the source of all funds received for the school
32 district. Notwithstanding any other provisions of law, the state auditor shall annually audit
33 the trust fund. A copy of the director's report and annual audit shall be forwarded to each
34 school district imposing the tax.

35 4. The director of revenue, and any deputies, assistants, and employees who have
36 any duties or responsibilities in connection with the collection, deposit, transfer,
37 transmittal, disbursement, safekeeping, accounting, or recording of funds which come into
38 the hands of the director of revenue pursuant to sections 162.1150 to 162.1172, shall enter
39 a surety bond or bonds payable to any and all school districts in whose behalf such funds
40 have been collected pursuant to sections 162.1150 to 162.1172 in the amount of one
41 hundred thousand dollars; but the director of revenue may enter into a blanket bond or
42 bonds covering the director and all such deputies, assistants, and employees. The cost of
43 the premium or premiums for the surety bond or bonds shall be paid by the director of

44 revenue from the share of the collections retained by the director of revenue for the benefit
45 of the state.

162.1162. 1. If, in any school district in which the income tax surcharge has been
2 imposed, any person is delinquent in the payment of the amount required to be paid
3 pursuant to sections 162.1150 to 162.1172, or in the event a determination has been made
4 against such person for taxes and penalty pursuant to sections 162.1150 to 162.1172, the
5 limitation for bringing suit for the assessment and collection of the delinquent tax and
6 penalty shall be the same as that provided in chapter 143, RSMo. If the director of revenue
7 determines that suit must be filed against any person for the collection of delinquent taxes
8 due the state pursuant to the state income tax law, and if such person is also delinquent in
9 payment of the income tax surcharge pursuant to sections 162.1150 to 162.1172, the
10 director of revenue shall notify the treasurer of the school district to which the delinquent
11 income tax surcharge is due at least ten days before turning the case over to the attorney
12 general. The school district, acting through its attorney, may join in such suit as a party
13 plaintiff to seek a judgment for the delinquent income tax surcharge and penalty due the
14 school district. In the event any person fails or refuses to pay the amount of any income
15 tax surcharge due, the director of revenue shall promptly notify the treasurer of the school
16 district to which the surcharge would be due so that appropriate action may be taken by
17 the school district.

18 2. If property is seized by the director of revenue pursuant to any law authorizing
19 seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by
20 the state income tax law, and where such taxpayer is also delinquent in payment of any
21 income tax surcharge imposed pursuant to sections 162.1150 to 162.1172, the director of
22 revenue shall permit the school district to join in any sale of property to pay the delinquent
23 taxes and penalties due the state and the surcharge due the school district. The proceeds
24 from such sale shall first be applied to all sums due the state, and the remainder, if any,
25 shall be applied to all sums due the school district.

162.1164. Unidentified moneys which have remained in the trust fund for a period
2 of three years shall be distributed to each school district participating in the then current
3 distribution of the identified moneys in the trust fund in the following manner: Each
4 school district shall receive the same proportion of the unidentified funds that it receives
5 of the identified funds.

162.1166. Moneys in the trust fund shall be invested by the director of revenue in
2 the same deposits and obligations in which state funds are authorized by law to be invested,
3 except that the deposits and obligations shall mature and become payable in time for
4 distribution of the funds as provided by sections 162.1150 to 162.1172.

162.1168. The income tax surcharge imposed by sections 162.1150 to 162.1172 shall
2 **not apply to the tax on the income of corporations.**

162.1172. Notwithstanding section 162.1153, no revenue received by a school
2 **district from the tax authorized pursuant to the provisions of sections 162.1150 to 162.1172**
3 **shall be included in calculating state aid pursuant to section 163.031, RSMo.**